

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

OP.No. 10009 of 2003(N)

PETITIONER:

V.M.MOHAMMED HAJI, AGED 68,
S/O.LATE MEETHIYAN, VALIYAPARAMBIL,
VADAKKEKADAPPALLYMOOLAYIL, S.KALAMASSERY,
CHANGAMPUZHA NAGAR P.O.

BY ADV. SRI.ESM.KABEER

RESPONDENTS:

1. THE SUPERINTENDING ENGINEER,
N.H. 47, VYTTILA.
2. THE KALAMASSERY MUNICIPALITY,
REPTD. BY ITS SECRETARY,
KALAMASSERY MUNICIPAL OFFICE,
KALAMASSERY.
3. THE EXECUTIVE ENGINEER, N.H.47,
VYTTILA.

BY ADV. SRI.M.K.ABOOBACKER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 13/03/2007, ALONG WITH WPC NO. 23189 OF 2004
THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

O.P.No. 10009/2003

ORDER ON CMP NO. 17269/2003 IN O.P.No. 10009/2003

DISMISSED.

13/03/2007

SD/-(C.N.RAMACHANDRAN NAIR, JUDGE)

ORDER ON IA NO. 2546/2006 IN O.P.No. 10009/2003

DISMISSED.

13/03/2007

SD/-(C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE SALE DEED NO. 575/59 DATED 26/3/59.

P2 : COPY OF THE TAX RECEIPT DATED 14/3/2003 OF THE PETITIONER'S PROPERTY.

P3 : COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER AND 106 SIGNATORIES DATED 01/03/2003.

P4 : COPY OF THE REPRESENTATION SUBMITTED BEFORE THE RESPONDENTS DATED 19/3/2003.

RESPONDENT'S EXHIBITS

R2(a) : COPY OF SKETCH OF THE AREA SHOWING THE BRIDGE ETC.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

**O.P. No. 10009 of 2003 N
& WP(C) No. 23189 of 2004 I**

Dated, this the 13th day of March, 2007

J U D G M E N T

While the case of the petitioner is that the drainage canal constructed by the Municipality is through his property, the learned counsel for the Municipality produced sketch in this Court and submitted that drainage canal is in existence for several years and it is passing through the boundary of petitioner's property. The sketch produced in Court is stated to be prepared by the Municipal Engineer. I find from the sketch that the drainage canal is only on the northern side of petitioner's property and the other side of the property does not belong to the petitioner, more over it is passing through the side of property of several owners. In the circumstance, municipality cannot change the course of the drainage canal. However, canal has to be maintained by the Municipality to prevent over flow and other nuisance to the neighbouring owners. If anybody objects against cleaning and maintenance of the canal, it is for the Municipality to take assistance of Police to maintain the canal free of hindrance.

(C.N.RAMACHANDRAN NAIR, JUDGE.)